IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH NOVEMBER 2004 / 24TH KARTHIKA 1926

Bail Appl..No. 7023 of 2007()

(CRIME NO.32 OF 2007 OF PAZHYAYANGADI POLICE STATION)

PETITIONERS/ACCUSED NOS.1,2,7 & 8

1. **NOUSHAD T.P., S/O. ABOOBACKER,**
   AGED 20 YEARS, THEKKEPURAYIL, KOOVAPPURAM P.O.,
   KUNNAMANGALAM, KANNUR DISTRICT.

2. **FAYAZ C., S/O. ABDUL KHADER A.C.,**
   AGED 21 YEARS, CHOMBATON HOUSE, KOOVAPPURAM P.O.,
   KUNNAMANGALAM, KANNUR DISTRICT.

3. **ABDUL RAZZAK, S/O. IBRAHIM, AGED 20 YRS,**
   KAMARUNNISA MANZIL, KOOVAPPURAM P.O.,
   KUNNAMANGALAM, KANNUR DISTRICT.

4. **FAIZAL M., S/O. MUSTHAFFA, AGED 20 YRS,**
   HAJI RICE MILL, KOOVAPPURAM P.O.,
   KUNNAMANGALAM, KANNUR DISTRICT.

BY ADV. SRI.P.M.HABEEB

RESPONDENTS:

1. **STATE OF KERALA, REP. BY**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. **THE STATION HOUSE OFFICER,**
   PAZHAYANGADI POLICE STATION, KANNUR.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007 ALONG WITH B.A.NO.6806 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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R.BASANT, J

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B.A.Nos. 6806 & 7023 of 2007

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Dated this the 15th day of November, 2007

ORDER

These applications are for anticipatory bail. Petitioners in the two petitions are accused 1 to 12 in a crime registered for offences punishable, inter alia, under Section 308 IPC. The petitioners 6 and 9 in B.A.No.6806 of 2007 are not arrayed as accused in the crime, submits the learned Public Prosecutor. Their application for anticipatory bail are hence to be dismissed as they are not required to be arrested.

2. Altogether there are 12 named accused and about 20 persons identifiable at sight. Political animosity is the alleged motive. The incident was between the petitioners who belong to the IUML and victims who belong to CPM. There were altogether 6 injured persons. The petitioners who were members of an unlawful assembly, allegedly on account of political animosity, attacked the victims with iron rods and iron pipes. Victims suffered only simple injuries, submits the learned Public Prosecutor.

3. The learned counsel for the petitioners prays, the

learned Public Prosecutor does not oppose the said prayer and I am satisfied, in the facts and circumstances of this case, that the petitioners can be granted anticipatory bail , subject of course to appropriate terms and conditions. I take note of the submissions of the learned counsel for the petitioners that all other offences are bailable and the allegation under Sec.308 IPC is raised without any justifiable reason. The counsel contends that the said Section has been included with the sole purpose of vexing and harassing the petitioners.

4. It is not necessary for me to embark on any detailed discussions. In the absence of opposition by the learned Public Prosecutor, it is not necessary to advert to facts in any greater detail. Suffice it to say, I am satisfied that the petitioners can be granted anticipatory bail.

5. In the result these petitions are allowed in part.

6. B.A.No.6806/2007, in so far as, it relates to petitioners 6 and 9 is dismissed, accepting the submission of the learned Public Prosecutor that the said petitioners are not required to be arrested.

7. The following directions are issued in respect of all

other petitioners under Sec.438 Cr.P.C.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 22.11.2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 1 p.m. noon on 23.11.07 and 24.11.2007 and thereafter they shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month and thereafter the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 22.11.07, they shall be released on bail on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 22.11.07.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE